defrauded party should bar equitable relief. It has been said that equity will not grant relief as a reward for negligence. See *Ft. D. B. & L. Ass'n* v. *Scott* (1892) 86 Iowa 431, 434, 53 N. W. 283. But where, as in the instant case, the intervening incumbrancer would be in exactly the same position if subrogation were granted that he was in originally, there would seem to be no good reason for denying it. See *Kent* v. *Bailey* (1917) 181 Iowa 489, 500, 164 N. W. 852; *Hill* v. *Ritchie* (1916) 90 Vt. 318, 322, 98 Atl. 497; but see *Rice* v. *Winters* (1895) 45 Neb. 517, 530, 63 N. W. 830. To do so would be to allow the intervening incumbrancer to profit by the fraud of the debtor, which seems essentially inequitable. Hence many courts hold that the mere failure to examine records, although negligence, is not fatal to the plaintiff's cause. *Kent* v. *Bailey, supra; Hill* v. *Ritchie, supra.* Where the plaintiff is guilty of negligence whereby the intervening incumbrancers are actually prejudiced, however, equity will not invoke the doctrine of subrogation. *Wilkins* v. *Gibson* (1901) 113 Ga. 31, 38 S. E. 374. In the light of these considerations, the conclusion reached by the instant case seems unsound.

TORTS—NEGLIGENCE—DUTY OF LANDOWNER TO FIREMAN ENTERING PREMISES.—The plaintiff, a fireman, in answering an alarm sent in by the defendant's servant, fell into a coal hole negligently left open in a driveway on the defendant's premises. The plaintiff sues to recover for his injuries. *Held,* three judges dissenting, for the plaintiff. *Meiers* v. *Fred Koch Brewery* (N. Y. 1920) 127 N. E. 491.

By the weight of authority a fireman is a mere licensee to whom a landowner is liable only for affirmative negligence. *Woodruff* v. *Bowen* (1893) 136 Ind. 431, 34 N. E. 1113; *Gibson* v. *Leonard* (1892) 143 Ill. 182, 32 N. E. 182. The lower courts of New York have also taken this view. *Eckes* v. *Stetler* (1904) 98 App. Div. 76, 90 N. Y. Supp. 473. Some courts have concluded that a fireman is a licensee, because he is said to be "licensed by law" to enter on premises in pursuit of his duty. See Cooley, Torts (3rd ed., 1906) 648. But a license implies consent and acceptance whereas a fireman is in duty bound to enter even if the landowner orders him to stay off. See Cooley, *op. cit.,* 648. The Massachusetts Court has given to a policeman who enters at an occupant's request the status of an invitee. *Learoyd* v. *Godfrey* (1885) 138 Mass. 315. This view also seems unsound. The privilege of a fireman or policeman depends on public duty and not on any express or implied invitation. See *Lunt* v. *Post Printing Co.* (1910) 48 Colo. 316, 324, 110 Pac. 203. Furthermore an invitation will only be implied where one comes on land for a purpose connected with the business of the landowner or with a business which he permits to be carried on there. *Plummer* v. *Dill* (1892) 156 Mass. 426, 31 N. E. 128. But a fireman may or may not enter on premises for a purpose connected with the owner's business. *Cf. Low* v. *Grand Trunk Ry.* (1881) 72 Me. 313. It is submitted that firemen and policemen are neither licensees nor invitees; they safeguard the property and life of the community and as a matter of public policy should be given every protection possible. On that ground the courts should place property holders under a duty to use due care toward them.

TRIAL BY JURY—LONG ACCOUNT—EXAMINATION OF PARTY BEFORE TRIAL.—In an action for goods sold and delivered involving a long account, the Federal District Court for the Southern District of New York,